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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
EUGENE DIVISION

JANET DOE, an individual,)	Case No. 6:24-cv-00801
)	
Plaintiff,)	COMPLAINT
)	
v.)	(Federal Tort Claim)
)	(Personal Injury – Professional
UNITED STATES OF AMERICA,)	Malpractice)
)	
Defendant.)	
)	

PLAINTIFF JANET DOE brings this complaint under the Federal Tort Claims Act,
28 U.S.C. § 2674 and alleges as follows:

PARTIES

1. This is a professional negligence case involving former Veterans Affairs clinical intern Shawn Gutierrez (“Gutierrez”), who provided mental health treatment to Plaintiff at the Salem Vet Center located at 2645 Portland Rd NE, Salem, Oregon 97301.

2. Plaintiff JANET DOE is an adult female residing in Marion County, Oregon. Plaintiff wishes to proceed via the use of a pseudonym because of the sensitive and highly personal nature of the case, which involves allegations of therapist malpractice of a sexual nature.

3. The Defendant is the United States of America, its officers, agents, employees, and representatives.

JURISDICTION AND VENUE

4. The Federal District Court has jurisdiction because this action is brought pursuant to and in compliance with 28 U.S.C. §§ 1346(b), 2671-80, commonly known as the Federal Tort Claims Act (hereinafter referred to as “FTCA”), which vests exclusive subject-matter jurisdiction of the Federal Tort Claims Act in Federal District Court.

5. Venue is proper under 28 U.S.C. § 1391(e) because Plaintiff and Defendant reside in this district and because a substantial part of the events or omissions giving rise to the claim occurred within this judicial district.

LIABILITY OF THE UNITED STATES

6. This case is commenced and prosecuted against the United States of America to and in compliance with Title 28 U.S.C. §§ 2671-80, the FTCA. Liability of the United States is predicated specifically on 28 U.S.C. § 2674 because the personal injuries and resulting damages of which the complaint is made were proximately caused by the

negligence, wrongful acts, and/or omissions of employees and/or agents of the United States of America providing services to Plaintiff at Salem Vet Center while acting within the scope of their office, employment, and/or agency.

7. The substantive law of the State of Oregon applies to this lawsuit.

8. The Department of Veterans Affairs is an agency of the United States of America.

9. The Defendant United States of America, through its agency, the Department of Veterans Affairs, at all material times owned, operated, and controlled Salem Vet Center and staffed its facility with its agents, servants, and employees.

FACTS

10. Plaintiff is a combat veteran who served in the Army and Army National Guard from 1998 to 2013, including a tour in Afghanistan. She sought mental health treatment from Salem Vet Center in 2020 after experiencing suicidal ideation, struggles with alcohol dependency, symptoms of anxiety and depression, and intrusive thoughts with respect to traumatic experiences while in the Army.

11. Defendant assigned clinical intern, Shawn Gutierrez, to provide counseling services to Plaintiff. Gutierrez was supervised by the director of the Salem Vet Center, Col. Scott E. Delbridge.

12. Gutierrez provided mental health treatment to Plaintiff from approximately May of 2020 to July of 2020. These sessions took place on the Salem Vet Center premises during normal work hours.

13. As part of establishing treatment with Gutierrez, Plaintiff disclosed highly

personal information to Gutierrez that she had never previously confided to anyone. Gutierrez appeared sympathetic to Plaintiff and established himself as someone Plaintiff could trust. Gutierrez also knew from the beginning of the counseling relationship that Plaintiff was married.

14. Gutierrez provided Plaintiff with his cell phone number at the end of their first session.

15. Gutierrez and Plaintiff exchanged text messages following the second or third therapy session, which increasingly turned to topics of a personal nature. Shortly thereafter, Plaintiff and Gutierrez commenced a sexual relationship that took place alongside the counseling relationship.

16. Someone reported the improper relationship between Plaintiff and Gutierrez in approximately June of 2020.

17. Plaintiff and Gutierrez terminated their professional relationship on or about July of 2020 but continued their romantic relationship until on or about April of 2021.

18. Plaintiff did not initially perceive what happened with Gutierrez as tortious or harmful due to the romantic nature of the relationship, her vulnerable psychological condition, and her alcohol dependency. It was not until May of 2023 when she started counseling with a new therapist that she discovered she had a legally cognizable claim.

CAUSE OF ACTION

19. Gutierrez, as an agent for Defendant and while acting in the course and scope of his agency relationship as a clinical intern, was negligent in one or more of the following particulars:

- a. In failing to establish and maintain proper therapeutic boundaries with Plaintiff;
- b. In engaging in excessive and/or inappropriate self-disclosure;
- c. In seeing Plaintiff outside of the office without a therapeutic reason for doing so;
- d. In failing to treat Plaintiff with professionally acceptable methods;
- e. In failing to refer Plaintiff to another therapist once he lost objectivity;
- f. In failing to manage transference and countertransference in his counseling relationship with Plaintiff; and
- g. In commencing a romantic and sexual relationship with Plaintiff during the treating relationship.

DAMAGES

20. As a proximate result of the Defendant's negligent acts or omissions, Plaintiff suffered injuries that would not have otherwise occurred. Plaintiff pleads for all damages available under Oregon state law and federal law including, but not limited to:

- a. Past and future mental anguish;
- b. Past and future suffering, humiliation, and emotional distress;
- c. Disruption to Plaintiff's marital relationship;
- d. Loss of enjoyment of life;
- e. Aggravated symptoms of depression and anxiety; and
- f. Impaired ability to trust.

WHEREFORE, the Plaintiff respectfully prays for judgment against the Defendant for actual damages in an amount to be determined by this Court at the trial of this action, for the costs and disbursements of this action, and for such other and further relief as this Court deems just and proper.

Dated: May 15, 2024

Respectfully submitted,

/s/ Barbara Long

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